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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/669,486      | 09/25/2000  | Andrew D. Flockhart  | 4366-20             | 3085             |

22442 7590 10/12/2004

SHERIDAN ROSS PC  
1560 BROADWAY  
SUITE 1200  
DENVER, CO 80202

EXAMINER

ALVAREZ, RAQUEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 10/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/669,486

Applicant(s)

FLOCKHART ET AL.

Examiner

Raquel Alvarez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 71-84 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to communication filed on 7/13/2004.
2. Claims 1-43 have been cancelled. Claims 44-84 are presented for examination.

#### **Election/Restrictions**

3. Newly submitted claims 71-84 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: downloading an evaluator onto the consumer's computer so that the evaluator can examine on the customer's computer the type and/or value of the items in the set of items selected by the customer.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 71-84 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 44-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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Miloslavsky et al (597,685 Miloslavsky hereinafter) in view of Walker (6,088,444 Walker hereinafter).

Miloslavsky teaches a method for routing contacts in a contact center (Abstract). Evaluating a collection of one or more items the collection being associated with a contact of the customer and routing a contact of the customer to at least one working agent and queue based on priority queuing (col. 10, lines 25-55, col. 16, lines 20-21, lines 31-36, col. 31, lines 15-25, col. 36, lines 35-50, col. 38, lines 20-35), the collection is an order, such as a shopping cart (col. 12, lines 2-15), providing the customer with at least one web page that describes the item and the routing step follows a step of clicking on the icon (col. 12, line 45 - col. 13, line 4)., comparing the item with predetermined information, such as a list of items. to determine the destination of the outing step (col. 16, lines 30-40, col. 36, lines 40-45, col. 38, lines 20-35)., routing step considers at least the identity of the customer (col. 15, lines 50-67).

Miloslavsky teaches a method for routing contacts comprising: creating an electronic order associated with the current contact of a customer (col. 10, lines 45-55)., adding at least one item to the electronic order (col. 12, lines 1-10), receiving a request from the customer for the contact to be serviced (col. 12, lines 44-63)., evaluating the at least one item in the order to identify at least one of an identity of the at least one item (col. 16, lines 30-40, col. 19, lines 40-45, col. 31, lines 20-25, col. 36, lines 40-45, c.01. 38, lines 20-35), selecting at least one resource and a queue to receive the contact based at least in part on the identity of the item (col. 16, lines 20-21, lines 31-36, col. 19, lines 40-45, lines 40-45, col. 38, lines 20-30).

Walker teaches a method and corresponding system comprising: evaluating a collection of one or more items of a customer to identify a value of at least one item in the collection, the collection being associated with a contact of the customer (col. 3, lines 45-50, col. 5, lines 54-60), and routing the contact of the customer to at least one of a working agent and queue in the contact center based at least in part of the value (col. 3, lines 45-67, col. 6, lines 30-35). Walker also teaches the routing step considers at least one of an identity of the customer, the historical business relationship with the customer (col. 3, line 64 - col. 4, line 8), the plurality of items having a separate value and the value of the at least one item is the total of the separate values (figs 4B, 4C); the priority of the contact is directly dependent upon the value of the at least one item (col. 6, lines 10-35).

Walker also teaches creating an order associated with a current contact of a customer (figs. 4A-4C); adding at least one item to the order (figs. 4A-4C); evaluating the at least one item in the order to identify at least one of an identity of the item and a sales price of the item (col. 4, line 65 - col. 5, line 10) selecting at least one of a resource and a queue in the contact center to receive the contact based at least in part on at least one of an identity of the item and a sales price of the item (01. 3, lines 45-67, 01. 6, lines 9-40). It would have been obvious to one having ordinary skill in the art at the time of the invention to include the value of the order and routing based at least in part on the value of the order as in Walker in the method and system of Miloslavsky since evaluating and routing based on the value of the order would have prevented dissatisfaction of the high business value customer as suggested in Walker (col. 1 ,

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lines 30-35) and since Miloslavsky suggests preemptive priority for valued customers (col. 31, lines 19-21).

Miloslavsky substantially teaches the invention but does not specifically show use of an applet. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to have used an applet for accessing and computing the order since this is well known in the art for on-line customer orders. It also would have been obvious to have compared the value to a predetermined value to determine the destination step since a threshold would be necessary in order to determine who qualifies as a "valued" customer where the value is at least determined by the amount of sales. It also would have been obvious to have evaluated the value and nature of item in a shopping cart since this would have been adopted for the intended use of determining which product the customer is about to order (col. 12, lines 9-15).

### **Response to Arguments**

5. Applicant argues that Miloslavsky doesn't teach the evaluation of the items selected by the customer for possible purchase to identify a contact of the customer to one working agent and queue based on the value of the item. The Examiner respectfully disagrees with Applicant because Miloslavsky teaches on col. 1, lines 58-61 " The software can now route the call to an agent who can best handle the call based on predefined criteria (e.g., language skill, **knowledge of products the customer bought**, etc.) " Therefore, the product has to be analyzed in order to route the customer to the corresponding agent.

6. Applicant arguments pertaining to a previous office action is moot because the

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claims are rejected under a new ground of rejection.

7. With respect to the arguments to independent claim 71, the claim is withdrawn from consideration as being directed to a non-elected invention. See rejection above.

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references clearly pertain to routing telephone calls based on certain items selected by the customer.

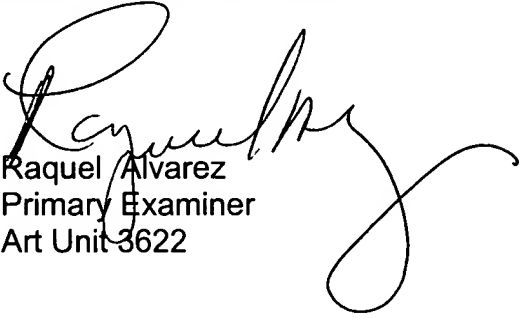
**Point of contact**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (703)305-0456. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raquel Alvarez  
Primary Examiner  
Art Unit 3622

R.A  
10/5/04